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SUPREME COURT OF THE UNITED STATES.

No. 78. 25

JOSEPH BARLOW, CLAIMANT OF 85 HHDS. OF SUGAR, &c. &c.
APPELLANT,

VERSUS

THE UNITED STATES.

ON APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

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United States of America, southern district of New York, ss.

I, Frederic J. Betts, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the writings annexed to this certificate are true copies of their respective originals, on file, and remaining of record in my office, and that the same embrace all of the pleadings, proofs, exhibits, orders, and decrees in said causes.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this fifteenth day of February, in the year of our Lord one thousand eight hundred and thirty-one, and of the independence of the United States the fifty-fifth.

FRED. J. BETTS, *Clerk.*

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District court of the United States of America for the southern district of New York.

At a special district court of the United States of America for the southern district of New York, held at the city of New York, in the said southern district, before the Judge of the same court, on the fourteenth day of January, in the year of our Lord one thousand eight hundred and thirty, comes James A. Hamilton, attorney of the said United States, who prosecutes for the said United States in this behalf, and being present here in court, in his proper person, in the name and on behalf of the said United States, alleges, propounds, and declares, as follows, to wit:

That Mordecai M. Noah, surveyor of the customs for the district of New York, heretofore, to wit, on the eleventh day of January, in the year of our Lord one thousand eight hundred and thirty, at the city of New York, and within the said southern district of New York, on waters that are navigable from the sea by vessels of ten or more tons burthen, seized as forfeited to the use of the said United States, the following goods, wares, and merchandise, to wit: eighty-five hogsheads of sugar, marked and numbered as follows, to wit, fifty-three hogsheads of sugar marked R, number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53; eighteen hogsheads of sugar marked S, numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and fourteen hogsheads of sugar marked Q, numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14; the same then and there being in and on board of a certain ship or vessel, commonly called a brig, the Spartan, being the property of some person or persons to the said attorney unknown. That an entry of the before mentioned and described eighty-five hogsheads of sugars was heretofore, to wit, on the ninth day of January, in the year aforesaid, made in the office of the collector of the customs for the district of the city of New York, for the benefit of drawback or bounty upon the exportation thereof; which said entry of the said eighty-five hogsheads of sugars was then and there made, by a false denomination of the said sugars, and erroneously as to the time when the vessel in which they were imported, and were found to disagree with the packages and quantities and qualities, as they were at the time of the original importation, with intent thereby to defraud the revenue of the United States; and the said attorney avers, that such disagreement was not occasioned by any necessary or unavoidable wastage or damage, and that no permission had been obtained according to law to alter or change the quantities or packages thereof. That an entry of the before mentioned and described eighty-five hogsheads of sugars was heretofore, to wit, on the day and year last aforesaid, made in the office of the collector of the customs for the district of the city of New York, for the benefit of drawback or bounty upon exportation thereof, which said last mentioned entry of the said eighty-five hogsheads of sugars was then and there made, by a false denomination of the said sugars, with intent thereby to defraud the revenue of the United States. And the said attorney, on behalf of the United States, saith that, by reason of all and singular the premises aforesaid, and by force of the statute in such case made and provided, the aforementioned and described eighty-five hogsheads of sugars became, and are forfeited to the use of the said United States, and that all and singular the premises aforesaid are and

were true, public, and notorious; of which due proof being made, the said attorney prays the usual process and monition of this honorable court, in this behalf to be made, and that all persons interested in the before mentioned and described eighty-five hogsheads of sugar may be cited in general and special to answer the premises, and all due proceedings being had, that the said eighty-five hogsheads of sugars may, for the causes aforesaid and others appearing, be condemned by the defunction sentence and decree of this honorable court as forfeited to the use of the United States, according to the form of the statute of the said United States in such case made and provided.

JAMES A. HAMILTON,
Attorney for the southern district of New York.

At a special district court of the United States held for the southern district of New York, at the town of Newburgh, in the county of Orange, on the fourth day of February, in the year of our Lord one thousand eight hundred and thirty. Present, the honorable Samuel R. Betts, esquire, judge of the district.

The UNITED STATES OF AMERICA,
vs.
85 HOGSHEADS OF SUGAR; 53 marked R, numbered from 1 to 53, inclusive; 18 do. marked S, numbered from 1 to 18, inclusive, and 14 do. marked Q, from 1 to 14, inclusive.

The libel filed in the above cause having been read, and the marshal of the southern district of New York having returned, on the monition therein issued, that he had attached the sugars therein mentioned, and had given due notice to all persons claiming. On motion of the district attorney of the United States, the first, second and third proclamations were made for any person to appear that can show any cause why the said sugars, marked as aforesaid, should not be condemned as forfeited to the use of the United States, pursuant to the prayer of the said libel, and he should be heard; and no person appearing to defend or claim the same, on the further motion of the said attorney, it was ordered by the court, that the first, second and third defaults should be entered: whereupon the said attorney for the United States prayed sentence of condemnation against the said eighty-five hogsheads of sugar, marked as aforesaid, and it is thereupon ordered, sentenced, and decreed by the court, that the said eighty-five hogsheads of sugar be condemned and forfeited to the use of the United States, pursuant to the prayer of the said libel, and that the clerk issue a writ of venditioni exponas to the marshal of the southern district of New York accordingly.

District court of the United States for the southern district of New York.

The answer and claim of Joseph Barlow, of the city of New York, sugar refiner, to the libel filed in the district court of the United States for the southern district of New York, by James A. Hamilton, esq., district attorney for the United States for said district, on behalf of the United States, against 85 hogsheads of sugars marked and numbered as follows, viz :fifty-three hogsheads marked R, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53; eighteen hogsheads marked S, numbered 1, 2, 3,

4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and fourteen hogsheads marked Q, numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, seized as forfeited to the use of the United States by M. M. Noah, esq., surveyor of the customs for the district of the city of New York.

This claimant, now and at all times saving and reserving to himself all advantage of exception to the insufficiency of the said libel, and the right to put in and make such further claim and allegations as he may be advised, says, that the said eighty-five hogsheads of sugar, seized as aforesaid, before and at the time of such seizure, were and are the property of this claimant, and he prays that the same may be delivered to him accordingly. And this claimant says, that he is a sugar refiner by profession, and for several years, now past, has carried on extensively, in the city of New York aforesaid, the business of refining sugars out of sugar imported into the United States from a foreign port or place, and of making shipments of refined sugars to foreign places in the course of his business, and for the benefit of drawback or bounty allowed by the acts of Congress in that behalf. That some time in the month of December last, this claimant projected a shipment of such refined sugars by the brig Spartan, mentioned in the said libel, from the port of New York to Leghorn, in Italy, and between the twentieth day of December and the second day of January, now last, made sundry entries in the office of the collector of the customs in the district of the city of New York, in the usual way of refined sugars so intended to be shipped on board of and exported in said brig to Leghorn aforesaid, in which entries were included, among other refined sugars, the said 85 hogsheads of refined sugars so seized as aforesaid, and hereby claimed by this claimant. And this claimant further saith, that on such entry being made as aforesaid, one and sometimes more of the officers of the customs, under the direction of the surveyor of the customs, attended at the sugar refining establishment of this claimant in said city, and superintended and inspected the breaking up and packing of the said refined sugars in each and every of the said hogsheads, and the shipment thereof in and on board the said brig, and gave the usual certificates thereof, and this claimant thereupon completed the said entries at the custom-house by taking the oath required by law in such cases. That the said refined sugars were made out of sugars imported from a foreign port or place and giving the bonds required to entitle this claimant to the benefit of the drawback or bounty allowed by law on refined sugars exported from the United States; but for a more full explanation of these matters and greater certainty in this behalf, this claimant prays leave to refer to the said entries, certificates, oaths, and bonds now remaining in the custody or under the control of the collector of the customs for the district of the city of New York aforesaid. And this claimant saith that he is himself, and for many years past has been, a sugar refiner; that he himself refined about one half of the said sugars, and the residue thereof he purchased of other sugar refiners in said city, to wit: Adolphus Ocherhausen, Messrs. Havermeyer, John Ordionaux, Seaman Tobias & Co., and William Augustus Archibald, and that each and every of the hogsheads or casks of refined sugars, entered and shipped by him as aforesaid, including the said eighty-five hogsheads of refined sugar seized as aforesaid, was and were actually refined sugars, made out of sugars imported into the United States from a foreign port or place. And this claimant says, that after the said sugars were shipped as aforesaid, bills of lading therefor were signed by the master of the said brig, and advances were made thereon on the faith there-

of, by the agent of the consignees, to this claimant to a large proportion of the invoice value thereof. That as the said brig was about to sail, and while lying in the port of New York in waters navigable for vessels of ten tons and upwards, the collector of the said district, without the consent of this claimant, or the master or owners of said brig, caused the said sugars to be unladen, eighty-five hogsheads whereof, being the hogsheads above mentioned, he caused to be seized, as this claimant is informed, under the pretence that the same were not refined sugars within the meaning of the acts of Congress in that behalf, and the residue to be reshipped on board the said brig, whereby this claimant hath been subjected to great damage and expense. And this claimant admits, that he made the entries aforesaid of the said refined sugars for the benefit of drawback or bounty on the exportation thereof; but he denies that the said entries or any entries of said sugar in the office of the said collector were or was made by a false denomination of the said sugars, or erroneously, to his knowledge or belief, as to the importation thereof, but he admits that such entries did not designate the time when or the vessel in which they were imported, no such designation being, as he submits, required or contemplated by any law; and he further admits, that the said sugars having undergone the process of refinement, and being packed in hogsheads as aforesaid for exportation, did not and could not agree with the packages, quantities, and qualities, as they were at the time of the original importation, no such agreement being, as he is advised and submits, required by law. And he denies that he made the said entries, or any of them, or any part thereof, with intent to defraud the revenue of the United States, or with any fraudulent intent of any kind; on the contrary, he says, that the whole proceedings aforesaid were had under the immediate inspection and direction of the officers of the customs, and were fair and bona fide without any fraud or concealment of any kind; and he denies that the said eighty five hogsheads of refined sugars, or any part thereof, are or is, to his knowledge or belief, forfeited to the use of the United States for any cause or reason whatever, and he claims the same as his sole property, and prays that the same may, by the decree of this court, be adjudged and delivered to him, and that he may be hence dismissed with his costs, damages, and expenses adjudged to him on occasion of the premises. JOSEPH BARLOW.

Wm. Slosson, proctor and advocate for claimant, sworn this 5th day of February, 1830, before me, FRED. J. BETTS, *Clerk.*

February 5th, 1830. Sir, I consent to waive the condemnation of sugars upon the claim being amended, by your setting forth the names of the persons from whom one half of the sugars were purchased.

Your obedient servant,

JAMES A. HAMILTON.

Wm. Slosson, esq.

At a special district court of the United States held in and for the southern district of New York, at the City Hall of the city of New York: Present, the honorable Samuel R. Betts, judge of the district court.

The United States,
vs.
Eighty-five hogsheads of sugar.

On reading and filing the consent of James A. Hamilton, esq., United States' attorney, and on motion of Mr. Slosson, for claimant, ordered that

the defaults entered in this cause, on the 4th instant, with all subsequent proceedings on the part of the United States, be set aside; and, on like motion, it is further ordered, that the claim and answer of Joseph Barlow in this cause, filed on the fifth instant, be amended by inserting on the 20th line of the second page of the same, after the word "city," the words "to wit, Adolphus Ockherhauson, Messrs. Havermeyer, John Ordionaux, Seaman Tobias & Co., and William Augustus Archibald."

District court of the United States of America for the southern district of New York, between the United States of America, libellants, and eighty-five hogsheads of sugar, &c., Joseph Barlow, claimant.

The replication of James A. Hamilton, attorney of the United States for the southern district of New York, on behalf of the said United States, to the claim and answer of the said Joseph Barlow.

The said James A. Hamilton, attorney of the said United States for the southern district of New York, saving and reserving to himself and to the said United States all benefit of exception to the uncertainties, imperfections, and insufficiencies of the said claim and answer of the said Joseph Barlow, for a replication thereto, says, that all and each of the several facts, matters, and things alleged and stated by him, the said attorney, in his said libel on behalf of the said United States, are true, and that the matters and things alleged and stated by the said Joseph Barlow, in his said claim and answer, are not true.

JAMES A. HAMILTON,
Attorney of the United States for the southern district of New York.

The UNITED STATES OF AMERICA,
vs.
85 hogsheads of sugar.

Testimony taken by the clerk in open court, February 19th, 1830.

David S. Lyon, sworn for the United States, is deputy collector of the port of New York, produces the original entries, dated 4th December, 1829, by Joseph Barlow, containing the oath marks of the sugar, &c., and which are hereunto annexed, the first marked (A,) another, dated 24th December, 1829, forty hogsheads, marked (B); another, 31st December, 1829, 50 hogsheads, marked (C); another, dated 9th January, 1830, 20 casks, marked (D); another, dated 12th January, 1830, 30 hogsheads, marked (E); another, dated 14th January, 1830, fifteen casks, marked (F); all which he proves to be the original entries.

On cross-examination witness says, all the regular forms at the custom-house were gone through with in respect to the sugars. Mr. Joseph Barlow has been an exporter of refined sugars for the past years.

Re-examined, says, Mr. Barlow has not been a large exporter of refined sugars until within nine months; within that time he has been entitled to debenture to the amount of from twenty to forty thousand dollars.

Sworn Feb. 19th, 1830.

F. J. BETTS, *Clerk.*

George F. Hopkins, being sworn for the United States, says, he is a deputy inspector of the customs; he assisted in taking samples from the sugars libelled in this cause. The specimens produced by witness were taken from the hogsheads by boring about $\frac{2}{3}$ through the hogsheads; they have been in

his possession ever since. The marks on the papers are the custom-house marks, and correspond with the marks of the hogsheads out of which they were taken from; they also designate whether the specimen was taken from the bottom or the top. Witness took samples from 3 hogsheads from the top, and delivered them to Mr. Chilton; made no memorandum of the hogsheads, but the custom-house marks of the hogsheads were put upon the papers containing the specimens. The samples from the three hogsheads were taken promiscuously, and so with the other samples produced. Within a few days, now last past, witness, upon examining one of the hogsheads marked R, 15, he found there was a small drain of about a spoonful, which witness tasted and found to be molasses. He also found a very slight drainage from two others, which were very slight. Witness found that the samples taken from the bottom of the hogsheads were invariably heavier or more moist than those taken from the top. Peter Spranger and James G. Reynolds, inspectors, &c., assisted witness in taking the samples, and were also present when the drainage above mentioned was discovered.

Sworn February 19, 1830.

F. J. BETTS.

Jonathan Thompson, sworn for the United States, says, that he was collector of duties on refined sugars from 1813 to 1817; has been about seventeen years conversant with the subject of refined sugars; examines the samples of letter R, proved by last witness, and says they are better tasted than bastard sugar, but are not so dry; they are not as good as Muscovado; they might be considered a very inferior quality of Muscovado sugar, and if refined, it might be made good sugar of. Bastard sugar is the refuse of refined sugar; during the late war it was sometimes sold and refined over; dont know that it is ever imported; never heard of its being imported; during the war, when there were duties upon refined sugar, the refiners in this city refused to pay duties on bastard sugars as refined sugars. The Government did not exact duties upon them; knows that dealers in sugars did not consider them refined sugars. Witness, from an experience of thirty years, should say, that the specimens of letter R certainly are not refined sugars. Witness cannot tell when the original sugars of which these specimens were made were produced. On examining specimens of letter S, witness says they are somewhat similar to letter R; they are not refined sugar; they have some smell of the blood which has been used in refining them; they are brown sugars; there has been something done to them; one of the specimens is a lighter color, and one has some lumps of white sugar in it. On examining samples of letter Q, he says something has been done to them; they are not, in his opinion, refined sugars; they are very poor brown sugars, and not refined sugars; some process has been attempted; they have some of the smell similar to refined sugars, but not as strong. On examining sample R, 11, (taken from the bottom,) witness says it is sugar; it would be denominated by dealers the foot of a hogshead of sugar; he has seen as good out of molasses hogsheads; R, 13, is similar, but not quite so bad as the last; Q, 10, must be the foot of a cask of very poor brown sugar, at least it has that appearance; R, 9, is similar, but a little drier and better; it is the foot of some cask. These last specimens are inferior to the other samples examined by witness. Witness, when collector, had a conversation with Mr. Barlow on the subject of the exportation of bastard sugar, and witness told him such sugars were not entitled to drawback; that Government

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did not allow drawback except upon refined white sugars, that which was clearly and fully refined; has been forty years acquainted with sugars, never heard any quality of brown sugars called refined sugars; the trade do not consider them refined sugars; dont think any grocer in New York would hesitate a moment to say these specimens are not refined sugars.

Being cross-examined, witness says, that in the market sugars are not denominated "refined," but "loaf, lump, and brown." Witness says these would be denominated in the market brown, and not loaf or lump sugars. If the sugar offered for exportation and debenture did not correspond with law, it would be the duty of the inspector to stop it, and not to suffer it to be admitted to debenture; upon examining a specimen of sugar produced by claimant, says it is brown sugar, and is not refined; process of refining not completed; the specimen is put in a paper, marked G; another specimen, marked H, witness says is brown sugar, and not fully refined; it is handsomer than the last, a good deal better, and in a greater state of refinement; another specimen, I, is brownish white, and in another stage of refinement; K is another of the same description, under a different degree of refinement; it has not completed its manufacture. Witness does not consider it refined until it is fit for sale and consumption, as white, or completely refined sugar. There is a kind of refined sugar called double refined sugar; not much made here, but that is not the ordinary kind of refined sugar. Witness considers only those sugars refined which are completely white and fit for consumption; has never refined sugar, but has seen it for 30 or 40 years past in its different stages of refinement by calling at the refiners; refiners in this country, witness thinks, refine pretty much in the same way; does not know whether or not they use a different process in refining. L is brown sugar; something has been done towards refining it. M is not as good as the last, but has had something done to it. The grain of the two last specimens is strong; the stronger the grain the better the sugar. These specimens are not fully refined; they have not been whitened, and are not fully manufactured; cannot tell in what particulars they are deficient, not being a manufacturer.

William Sutton, sworn for claimant, says, the specimens last produced were fairly taken from the sugars libelled in this cause in the presence of witness and Mr. Hopkins. When the inspectors were taking specimens, Mr. Barlow objected to their taking specimens in that way, because it injured the grain and would make it drain; he requested them to open the casks and take out the sugars.

Cross-examined. Is a ware-house man in Mr. Barlow's employment; dont know the usual mode of taking specimens of sugar; the samples last referred to came from Mr. Derring's sugar-house; Mr. Barlow does business there; took the samples home and had them in his possession; witness exhibited them to Mr. Rhinelander, and to nobody else; 3 samples taken; another produced marked N.

George F. Hopkins, sworn for the United States, and called by claimant, says specimens were taken for claimant from the casks seized. The custom-house samples produced were taken three or four days since.

William Sutton, being further examined, says, Mr. Barlow does business at 134 Duane street; Derring's sugar-house is there. Witness has lived with him six or eight months; during that time Mr. Barlow has purchased all that he could buy of bastard sugars, and generally exported; has not purchased much molasses; has bought molasses; has made some sugar of it;

might have some of it exported; cant swear there has been; has been his practice for six months to buy all sorts of sugar from the different sugar-houses.

John Ordionaux, sworn for claimant, is a sugar refiner; has carried on the business for twelve years; is acquainted with the process of refining; examined at the custom-house stores some of the sugars which are libelled in this cause. There was a custom-house officer present, Mr. Spranger; examined specimens of the sugar, which he was told were fair samples; the hogshead he examined was refined sugar; did not inform the officer what he came for. Sample R, No. A, was given witness by the custom-house officer from cask R; it is refined sugar. S, No. A, was taken from the cask S; it is refined sugar; has frequently sold them as refined sugar; has sold them to Mr. Barlow; sold them for the purpose of being exported; never heard to the contrary of their being exported; it is bastard sugar, two clays, some call it piece; sold Mr. Barlow a part of the sugar seized; has been paid for it. That was refined from foreign sugar; witness refines from no other.

Being cross-examined, says, on the fifteenth or sixteenth November last, sold Barlow about 18,000 pounds; he paid 8 cents a pound cash; this was the average price; if he had separated it he would have got twelve cents for the white and six for the brown; all the crystalized sugar in the pot, witness calls refined sugar; has not been in the habit of refining specially for Mr. Barlow; never purchased any Louisiana sugar; sometimes the process of refining takes out the color, sometimes not. The loaf shown the court from the mould is all refined sugar.

Re-examined. Has at different times sold large quantities of refined sugar to Mr. Barlow; sometimes as high as 13½ cents per pound by the large quantity; sometimes bought in the mould. Witness then puts the whole together; sometimes he separated the white from the other, but Mr. Barlow took the whole.

William F. Havermeyer, sworn for complainant, says, he is a sugar refiner in this city; has been in the business about two years; was with his father in the business five or six years, and has been acquainted with the business ever since his recollection; the following is the process of refining: the proper sugar being selected, the pans are charged with a certain portion of lime water, stronger or weaker, according to the quality of the sugar intended to be refined; they are then filled with the sugar, with which a quantity of blood is well mixed by agitation, and which is suffered to stand a night to dissolve; fires are lighted under the pans early in the morning, and, as the liquor becomes heated, the animal matter which was thrown in coagulates, attracts all the feculent and earthly matter, and raises it to the surface in the appearance of a thick black scum; the fire being damped, it is left to stand a few minutes to settle, and then is removed by a skimmer: as the impurities are never entirely removed by a first process, a second is necessary; the solution is therefore cooled to a certain degree, by adding some water scum, or sirup; then a fresh quantity of blood, but less considerable than at first, is poured in; the fire is renewed, and care is taken to increase the heat gently, as before; the animal substance seizes on the impurities which remain; collects them on the surface, and are then skimmed off. The same operation is repeated 3 or 4 times, according as the sugar is more or less dirty, until a small quantity taken in a metallic spoon appears perfectly transparent; the liquor contained in the pans is then conveyed by a gutter

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into a basket lined with a woollen cloth, and after filtering through this cloth is received into a cistern, called, in sugar-house phraseology, the clear cistern. The contents of the cistern is then ascertained by measurement, and $\frac{1}{3}$ part is pumped back into the pans. The fires are now increased, and the sugar made to boil as rapidly as possible, until evidences of its being boiled sufficiently appear, when the fire is instantly damped and the boiling sugar is carried off in basins to the cooler; another $\frac{1}{3}$ is then pumped into the pans, which is evaporated in like manner; when the sugar is in the coolers it is violently agitated with wooden oars till it appears thick and granulated; it is upon this agitation in the cooler, that the fineness of the grain in refined sugars depends, when $\frac{1}{3}$ parts or one-third of the contents of the clear cistern is thus evaporated and granulated, it is poured into conical earthen moulds, having been previously soaked in water, and having the apertures stopped with paper; in these it is again agitated with sticks; when sufficiently cold, the loaves or lumps are raised to some one of the upper floors of the manufactory, and the paper stops being removed from their points, they are set with their broad ends upwards upon earthern pots. The uncrystalizable portion of the contents of the moulds soon runs down, which self-clearance is much assisted by a high temperature, and when this self-clearance is perfected, clay carefully mixed up with water, to a certain consistency, is put upon the loaves or lumps. The water from this slowly percolates the loaves, and washing the sugar from all tinge of molasses, runs into the pots; this process is repeated according to the nature of the sugar and the degree to which it has been boiled. This sirup or mixed solution of sugar and molasses, which runs into the pots, is mixed at some subsequent boiling with the solution of raw sugar in the pans, and again evaporated, and so much of sugar is again crystalized as the molasses or sirup in its self-clearance may have carried with it, making allowance for the repeated action of the fire The first running, containing, of course, more molasses, is reserved for the coarser kinds, while the last being little else than a solution of sugar made by the connexion of water from clay, with the sugar in its vicinity, is boiled into sugar of the same degree of fineness as those from which it ran. The sirup from the poorer kind of lump are boiled into what are called bastards, from which the molasses runs, with very little mixture of solid sugar.

Clt's. samples. Upon examining samples S, No. A, he says it is refined sugar; sample N, the same; sample S, ditto; sample K, ditto; sample G, ditto; sample H, ditto; sample I, ditto; sample M, ditto; sample, (custom-house) Q, No. 11, ditto; from the bottom, ditto; sample R 9, from the bottom, ditto; dont believe it ever came from the sugar-house in the state it is; sample R 46, from the bottom, is refined sugar; sample Q 10, from the bottom, ditto; sample R 11, from the bottom, ditto; R 13, from the bottom, ditto;

R 25,	from the top,	ditto.	R 1,	from the top,	ditto.
R 4,	do	ditto.	R 2,	do	ditto.
R 11,	do	ditto.	R 39,	do	ditto.
R 10,	do	ditto.	R 20,	do	ditto.
R 5,	do	ditto.	R 6,	do	ditto.
R 14,	do	ditto.	R 28,	do	ditto.
R 24,	do	ditto.	R 13,	do	ditto.
R 15,	do	ditto.	R 21,	do	ditto.
R 49,	do	ditto.	R 43,	do	ditto.

R 35, from the top, ditto. S 8, from the top, ditto.
S 5, do ditto. S 10, do ditto.
S 13, Q 13, Q 14, Q 11, Q 3, Q 6, Q 8, from the top, all refined.

The above are principally bastards of different qualities. The different colors of the sugar are owing to the top part being sooner washed by the operation of the water and the clay. The different parts of the same loaf, when separated, would make samples like those above exhibited. Witness considers sugar refined after the molasses has run off of itself and the sugar has become dry without the aid of clay. The mould need not be of any particular shape to make refined sugar; all sugar is refined which crystalizes after having gone through the process previous to claying. It would never refine itself in the raw state. The whitening of sugar is a different thing from refining. Witness sold Mr. Barlow some sugar, and learnt from him that they were with those libelled. They were manufactured from foreign sugars and were refined; they were delivered in the lump. The sale to Barlow was made in December last. Those sugars would produce samples of all the qualities like those shown to the witness. The sugar, by attraction of moisture from the atmosphere, would become damp like some of the samples produced. Witness has known dry sugar attract moisture enough to become a sirup. Sugars, if they were for two or three weeks near the salt water, would, as a matter of course, attract moisture and run some; from the course pursued with the sugars libelled, it is not surprising that it should run some. Should, from the description of the sugars, suppose that they were shipped in good condition 4 or 5 months ago; witness shipped for Mr. Goslen a few hogsheads of sugars of a little higher grade than those, but were brown. They were packed under the inspection of a custom-house officer, and the inspector took samples to carry to the custom-house. Mr. Board was the inspector; the sugars were shipped with benefit of drawback.

Cross-examined. On examining moulds brought into court, he says, the substance which ran from them on the floor is molasses. In the loaf turned out yesterday, the sugar was refined. The centre was refined, and the sugar at the bottom was so also. The sugar of the mould is refined sugar in all its parts; a mould being now emptied, he says what sugar is there is refined sugar; there is some water on it still. There is water which washes the tinge from the crystals running from it still. The sugar of that mould, when put in the mould, had been freed from all extraneous substances; does not consider molasses an extraneous substance; thinks all of the molasses has run out of the lump. It is refined sugar in its present state, apex and all. If the apex was broken up he should say it was refined sugar. Mr. Barlow gave 7½ cents cash for the sugars bought of witness; was not paid the cash immediately; all sold at the same price. When witness cuts up for home consumption, he keeps the base or white part and cuts up the rest, but as Mr. Barlow took it in the lump, witness let him have the base with the rest. No molasses or Louisiana sugar was put in in refining; has seen the large mould brought in by claimant; the top of it, from which the molasses has passed is refined, being dry, the lower part would be refined after the molasses had run out; cannot be refined sugar which is very dirty; sugar is said to be refined after the uncrystalizable part of it is drawn off; should not consider him a bad refiner of sugar who should sell it before the tinge of the molasses was taken away, if he could get any body to buy it. The process of claying is part of the process of making the sugar neat and white. The loaf in court has been clayed, but not fully.

Re-examined. The upper part of the cake in court is not dry; witness, after the claying has been put on, suffers the cake to remain in the mould until it is dry, after which the lower part remains of a brown color. That part, after it is dry, is refined sugar; by another application of clay it could be made whiter. Bastard sugar is the poorest quality of refined sugar, and is refined sugar. In taking the sugar out of the loaf they cut out the part which has molasses in it; no part of the loaf is bastard sugar; bastard sugar is formed from the drainings of the poorer kinds of sugar during the claying operation by uniting raw sugar with it. Samples were produced marked No. 101 and 102; he says they are raw sugars; thinks 101 New Orleans; cant tell from what sugar refined sugar is made. On examining the large pot brought into court by claimant, witness says it may be a very low lump or pretty good bastard; it is refined sugar.

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Adolph Ockerhausen, sworn for claimant, says, he has been many years a sugar refiner in this city; for himself since 1817, and for others since 1808.

Christian Ritter, sugar refiner since 1815 for himself; others before that.

George Banner, sugar refiner more than 40 years.

Andrew Lang, sworn for claimant, sugar refiner 14 years for himself; for others before that time. The following specimens were submitted to the four last witnesses. Mr. Ritter says Q 8, top, it is bastard sugar; it is refined; it must have been in the mould. Mr. Banner says it is good bastard sugar refined. Mr. Lang says it is bastard sugar gone through the process of refining; cant say whether it is refined sugar. Mr. Ockerhausen says it is bastard sugar gone through the process; he calls it refined bastard sugar; he cannot call it "refined sugar;" there are various kinds of refined sugar; witness makes three kinds, loaf, lump, and bastard; all these are refined sugars.

Mr. Ockerhausen says S 5, top, refined bastard sugar; the top of it the better sort; Q 6, top, is refined bastard; Q 11, bottom, it has got too dry; cannot say positively it is bastard; it has been refined he expects. R 11, bottom, is from the bottom; has not drained enough; has molasses; is refined bastard sugar; a ship laden with the best refined sugar, if there is salt in the bottom of the ship it will all turn to molasses; has known the same effect produced in a store where there was salt in the bottom of the store. S, No. 8, refined bastard; better than the last; did not sell to Barlow any of the sugars seized; sold him some lump sugar, about 14 or 1500 weight; this was after seizure; sold some lump sugar before the seizure, which might have gone on board the vessel.

Cross-examined. Sold bastor at 7¼ cents per pound; specimen shown is worth the same; $5 and $6 is the lowest price at which raw sugars have been sold coming from a foreign port. If witness was sent to by a correspondent to purchase refined sugar, he would not send bastard sugar; he would not send any thing, but return the order, and tell him to specify what he wanted. Bastard sugar, among dealers and refiners, is not considered as included under the appellation of "refined sugar." Bastard sugar is made of the sirup running out of the higher qualities of the sugar in refining.

Re-examined. Says the skimmings are also put with the sirup to make bastard; when the sirup is very poor, they put raw sugar with it to make bastard. The merchant who sends for refined sugar always specifies the

kind he wants; uses foregn sugar in refining; cant refine New Orleans sugars.

Again cross-examined. Molasses is not put with the sirup to make bastard.

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Wm. Sutton, called by claimant, knows of the shipment of these sugars. The sugars were packed under the inspection of witness; the cakes were shaved up; first part of the sugar, about 25 or 30 hogsheads, were manufactured by Mr. Barlow, the rest were purchased from different sugar refiners; when they were preparing the sugars there was a custom-house officer there from time to time. The packing was under the inspection and superintendence of a custom-house officer; there was not an ounce of raw sugar mixed; they were all refined sugars and were fairly packed; dont think there was but one custom-house officer there; that was Mr. Phillips. After they were packed they were sent on board of the vessel. The sugars were all dry and in good condition. R, No. 11, being shown, he says that, when shipped, the sugars were none of them in such a condition as that specimen. It must have been affected by some subsequent accident; near 200 hogsheads shipped on board the vessel altogether. Some time last summer saw Mr. Noah, the surveyor, at the refinery of Mr. Barlow; sugars of this description were then exhibited to him; not as good as some of these samples; it was bastard sugar of this description; was then preparing that sugar for shipping; they were shipped after Mr. Noah had examined them; a custom-house officer was with Mr. Noah, and the same officer superintended the shipment of those sugars, and has of like sugars since; Mr. Phillips is the officer.

Cross-examined. Is half-brother of claimant; serves for wages; no interest in the establishment. Mr. Barlow has not now on hand any bastard sugars; the lumps shown the officer had the ends knocked off.

Re-examined. The ends were taken off and the smear; all dampness, &c., were taken off from these sugars which have been seized.

Naphtali Phillips, sworn for claimant, says, he attended as inspector in the packing of the sugars; saw nothing as respects the custom-house which was not fair; saw the sugars chopped and shaved up; has frequently superintended the shipment of like sugars by Mr. Barlow; some better; on one occasion Mr. Noah, surveyor, was with him; there had been some previous difficulty. An entry had been put in his hands to go and attend to the packing of some sugars that were of a dark cast, and witness went and told the surveyor of it; the surveyor went with him on the afternoon of that day; saw the sugar; made some inquiries, and told witness it might be shipped if the points of the loaves were cut off; that was done, and the sugar was shipped; this was last October; that was similar to this sugar; Mr. Noah was never there with him at any other time; the tips were taken off from the sugar seized, and when there was any defect it was always taken off; Mr. Barlow has requested witness to ask the collector to come and look at the sugars in one or two instances; witness did so whilst the sugar was in a preparation for shipping; Mr. Barlow offered to give witness the key of the warehouse one night when the storm prevented the shipment of the sugar. Mr. Barlow is the only shipper of refined sugars, of any consequence, within witness's knowledge. Witness has, since last summer, attended 5 or 6 shipments. Mr. Archibald is a very considerable shipper; Mr. Strong has made one shipment.

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Cross-examined. The sugar was in different sized lumps; some was light colored, some was darker, and some quite brown; cant tell the quantity he saw packed; it was a large quantity. There were specimens shown to witness at the custom-house, and he was directed to permit to be shipped half white and half brown; he was shown a whole loaf of entire brown, and a lump of white, and he understood his instructions to be to allow sugars to be shipped which were intermediate the two. This was in the summer; his directions were received from the collector personally, not from Mr. Lyon. Mr. Lyon might have been present. This was before the surveyor went with witness to the sugar-house. Mr. Swartwout was to have gone with Mr. Noah, but could not; specimens produced were shown to witness at the same time. The brown lump may have been sent to Washington before the lumps now produced were sent on.

Re-examined. Dont know that the specimens produced are the same as he saw at the custom ; the brown loaf was like the specimens now on the table, and shown to the other witness. In witness's judgment the sugars seized corresponded to witnesses instructions.

Cross-examined. Is not a judge of sugars; saw all the sugars seized packed; they were sent immediately after they were packed, except on one or two nights, when the storm prevented their removal.

Re-examined. In putting up the sugars the whites and browns were sometimes mixed, and sometimes put in different casks.

Cross-examined. R, No. 11, bottom, being shown, says, if he had seen any such he should have told them that those tips would not pass; has been once or twice to Mr. Barlow's since the seizure; has not been continued in that business since the seizure.

Sworn February 20, 1830.

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John P. Bailey, sworn for the United States, being shown samples R 24, top; R 25, bottom; S 13, top; S 8, bottom; Q 11, top; Q 6, bottom; neither of them refined sugars; has been not quite 13 years in Mr. Strong's sugar-house, the most extensive in the city. The process of refining is first to clarify; it is combined with blood and lime water by means of heat applied to it; by this combination and the heat, the filth is extracted, leaving the sugar in a liquid state; it is then filtered, and then boiled to give it a consistency in which it will crystalize; this is determined by various processes; by appearance, by the thermometer; then put in large copper vessels in which the crystalization commences; then into moulds where the crystalization becomes perfect; water is then filtered through it by clay or cloth, immaterial which, or any other substance. The object is to let water pass gently through it; the filtering is repeated until the coloring matter is extracted; this is generally done with three applications; sometimes with two; to filter with clay takes about 30 days. The sugars are boiled and clarified the same day; then taken from the moulds and put into papers, and dried for about seven days in a heat of about 120 degrees of Farenheit; degree of heat not very material. The sirup coming from the sugar during the claying process, discharged by the water, is boiled, and goes through the same process as the other. The spirit or heart of the sugar is taken out by the first process; the second process forms bastard sugar; bastard sugar is clayed the same as refined sugar, and the sirup from that is what is commonly called sugar-house molasses. Refined loaf sugar, made of good sugar, was

worth, the first of January last, 18 cents; bastard from 7 to 7½; 100 lbs. of Havana sugar yields 60 lbs. of loaf, 18 bastard, 2¼ gallons molasses. The loaf produced is not refined sugar. The process is not completed; witness never heard bastard sugar included under the term refined sugar; it is not so considered in Mr. Strong's establishment; refined sugar is loaf and lump; it is impossible to bleach bastard as white as loaf or lump; the different proportions of the same loaf would command different prices; the face of a loaf of good bastard is worth 9½, the centre 8, the tips 6½. A manufacturer of sugar could not very well be mistaken as to the relative value of the different portions of a loaf of sugar; raw Muscovado is worth from 6 to 10 cents, depending upon the quality.

Cross-examined. The bastard sugar produced has been boiled, moulded, and clayed; has been through the same process as the other, except the clarification. The raw sugar had been through the process of clarification; this being the sirup from it, was unnecessary to clarify it again. The raw sugar is clarified by placing it in the pan with lime water and bullock's blood, where it is dissolved, and then heated, and the filth skimmed off. It is then passed through a thick blanket; after the sugar goes into the mould the sirup coming from it is often good enough to be made into lump, and that lump is often made into loaf. The bastard before witness can be made into lump and loaf. The loaf would not be refined sugar until the coloring matter had been extracted; refined sugar is completely white; if all was refined that was clayed, the white and brown sugars which come from the Havana would all be refined sugar, as they are all clayed there. Mr. Strong has almost universally disposed of his bastard sugar by breaking it up, putting it in barrels, and selling it as Muscovado. Of the custom-house specimens, he calls, 4 are bastards, and to the others he cannot give a denomination; this is Q 6, bottom; he cant say but that it is bastard. The samples from the custom-house could not be made white without re-boiling and going through the whole process. The re-boiling would enable them to extract the better part of the sugar. They could not re-boil it until it was first reduced to a liquid state. The loaf sugar produced is single refined; to double refine it would be necessary to go through the entire process with it, except clarification. If an order for refined sugar was given, he could not execute it without a specification of loaf or lump; he should never think of sending bastard. Refined sugar is generally called, in the market, loaf or lump sugar; orders are given by the denomination of loaf or lump. Witness's employment is in the New York sugar refinery. They have not been in the habit of shipping sugar. Sugar has, in a few instances, been shipped by merchants which was bought of them; in one instance they exported on their own account. There has been but very little refined sugar from this port until lately. Mr. Barlow has been here about three years. Since he came, witness has not heard of much being exported except by Mr. Barlow. They sold, in one instance, bastards to Mr. Barlow, only with a reservation that they were not to take the oath that they were refined sugars; they were made from foreign sugars. The specimens produced are not raw sugars; they have undergone some process, but not to that degree which witness calls refined sugars; does not know how they would be called abroad. Molasses, when sufficiently thin, is used as a substitute for water in claying; when thus used it is called liquoring. Specimen shown; says it is rock candy; it is not refined sugar; has not gone through the process of refining; must be made into loaf or lump to be refined; to make sugar candy, it is

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not necessary that the sugar should have gone through all the process of refining; makes sugar candy; it goes through the process of clarification, and it is then boiled to a consistency to make the candy; cannot whiten the sugar in the pan; has heard it had been done; if it was done, should call it refined sugar when crystalized; cant by claying make the specimen produced perfectly white; there is not body enough in it. The large mould is good piece, which is between bastard and lump.

John Evers, sworn for the United States, there has not been lately any large quantity of molasses; there has not in the last six months been any brought there; there has been none but the molasses made in the process of refining; has not told any body that they put molasses into the sugar during the process of refining; dont know that there has been 50 hogsheads of molasses in the establishment; has not been in a house in Park Place, in company with Mr. Willis, within three months or ever.

Henry Hartman, sworn for the United States, says he has been in Mr. Barlow's establishment 3 years; thinks there has not been 200, 100, or 50; there has been more than 20; it was boiled over; made bastards of it, and from that lumps; has been Mr. Barlow's practice to do that 9 or 10 months; Mr. Derring did so too.

Cross-examined. Used the molasses for liquoring, and for liquoring too it is used as a substitute for claying; no part of it turns to sugar.

John P. Bailey, being further examined for the United States, says, he was in the business of refining part of the time; that the system of internal duties was in operation; the bastard was not subjected to duties; 100 lbs. of samples would produce about 40 lbs. of refined lump; it is usually less profitable to refine bastard than to sell it as Muscovado; they break it up and sell it to the grocers.

Cross-examined. Has made an experiment to see how much lump bastard will make; he speaks from judgment only; the balance after obtaining 40 lbs. of lump would be about 30 lbs. of bastard sugars, and 30 lbs. of molasses; there would be some wastage; a gallon of molasses weighs about 11 lbs.; the average loss on all the sugars is about 5 lbs.; used to purchase raw sugars by gross weight, and sell loaf and lump by nett weight.

Re-examined. Should not think any sugar-house in the city would use 100 hogsheads of molasses in liquoring; can make sugar from molasses; has done it; would be profitable if he could get a debenture upon it; some of the molasses imported is equal to sirup.

Arch. Hubbard, sworn for the United States, says, he has sold molasses to Mr. Barlow; has had conversation with Mr. Barlow, who said he used it for whitening; sold to Mr. Barlow, a year last November, 96 hogsheads, and to Conshon 20 hogsheads; since some of the 96 was exported to Bremen. Witness's impression is, that there were 46 hogsheads; dont recollect going twice to custom-house.

Peter Remsen, sworn for the United States, on examining the samples, says, they are not refined sugars; has been engaged in the sale of sugars 15 years as grocer, and 15 since as a commission merchant; samples generally obtained by boring it; where sugars are very hard occasionally breaks the grain; in damp sugars it does not much.

Cross-examined. Witness's experience has not led him to examine what are called refined sugars; 15 or 20 years ago a great many refined sugars were exported; knows nothing of the amount exported of late.

Re-examined. Should think a dealer or refiner could not mistake specimens for refined sugar. They seem exceedingly common brown sugar.

Cross-examined. Thinks none but loaf and lump come under the denomination of refined sugar; thinks himself lump sugar is not refined; generally designated in the market loaf and lump.

William C. Boardman, sworn for the United States, has sold Mr. Crocheron, for Barlow, 40 hogsheads of molasses, in May and June last. Mr. Barlow said he wanted to mix them with his sugars in refining for the purpose of making refined sugars; sold him, also, West India sugars at 7 or 8 cents.

Cross-examined. The common sugars pay the same duty as better quality. Mr. Crocheron is a grocer; understood from Mr. Barlow that these purchases were for him, Barlow.

Benjamin Strong, sworn for the United States, has been a sugar refiner for twenty years; should deem specimens bastard sugar; does not deem bastard refined sugar; refined sugar is made from sugar, bastard from sirup; thinks bastard has not been considered refined sugar; this is no new formed opinion; thought it was not refined during the war; then had correspondence with Government on the subject; Mr. Thompson was then directed not to levy an excise upon it; observes from testimony in court that there is a difference of opinion on the subject.

Cross-examined. Refined sugars commonly denominated loaf and lump; those are the terms generally used in orders; refined seldom used in orders; loaf and lump are frequently designated by 1, 2, and 3, quality; if he had an order for refined lump sugar, should send for explanation, if not too far off; if so, should assort. If an order for refined bastard, should send bastard, but should consider the word refined very superfluous; also superfluous if loaf or lump was ordered; confines his definition of refined sugar to the product of sugar when refined; does not call bastard refined because that is the product of sirup; but if that is subjected to the process of refining it then makes refined sugar, because the product is from sugar subjected to the operation of refining. If to the sirup is added one half of raw material should call the product refined sugar; it makes piece, which is considered between bastard and the coarsest lump; piece ought to have hardness given by the raw material; piece is the lowest grade of refined sugar; it is difficult to define just how much raw material must be added to make piece; the line between very good bastard and very poor piece is almost imperceptible; a fair quaility of each presents a very perceptible difference; in piece uses two or three clays according to hardness; in bastards 1 and 2, generally 2; the face of piece will be generally nearly white, the centre darker, and the tips quite dark, and unfit for sale; all but the tip refined sugar; taking the centre of several pieces and breaking it up, it would produce a light brown sugar with large grains; the color would depend very much on the quality of the raw sugar; if of a poor quality it would produce a browner sugar. When witness boils sugar to make piece, they boil a better article than the specimen produced; should not consider specimen produced refined until it was whitened; dont know how to whiten in the pan during the process of clarification; understands some process is used; is ignorant of it. Shipped 2 or 3 months ago a small quantity of piece sugar; were entered as refined sugar; they were bastards refined over, mixed with piece; did not clarify the bastards again to make the piece exported; understood at the custom-house that sugar made of a quality between X and Y would be allowed to be ex-

ported; if one hogshead was filled with sugar like X and another like Y, he should consider both refined sugar; X and Y are from the same lump; not alter the denomination if crushed; the business of exporting refined sugars has not been carried on to any extent until the past year, when Mr. Barlow has gone into the business extensively; there has been to a small amount for 15 years.

Re-examined. Never knew sugars like specimens produced exported for benefit of drawback; X and Y were shown at custom-house in September last; R 3, R 16, R 12, R 8, from bottom, were probably from inferior quality, and the bottom would then be very damp; sirup comes from refined sugar; lump and loaf sugar, if dissolved in any way, would leave a light colored sirup, not quite as light as the loaf.

Cross-examined. If the sugar was not whitened the syrup would be dark; the first running would be dark; the others lighter.

Asbury Crocheron, sworn for the United States, has bought for Mr. Derring perhaps 200 hogsheads more or less; 96 hogsheads bought were in part exported; dont know Barlow's interest in the sugar-house of Mr. Derring; Barlow has told him he had not; Mr. Barlow does the out door business, Mr. Derring the inn door business.

Cross-examined. Within a year the business of the establishment with witness was perhaps $100,000; the sugars were generally foreign; has bought for them Orleans, but not within 6 months; has understood he has bought largely elsewhere; knows he has in some instances; the sugars purchased were of the most inferior quality which could be bought; poor pay; the same duty as good.

Re-examined. Bought, some six or nine months back, some New Orleans sugars; a few barrels, as he could get them low.

Anthony Haff, sworn for the United States, is deputy surveyor; was present when Mr. Phillips received instructions from the surveyor in the surveyor's office, as to the kind of sugar to be passed; the sample produced is the one shown to him; X and Y are parts of the same sample; they were sent by the collector to the surveyor as the samples by which they were to be governed; they were there shown to Phillips in the presence of several other inspectors; the sample was shown to Phillips as his guide previous to the seizure of the sugar libelled; dont know that Mr. Noah saw these sugars before they were seized; is pretty certain he did not.

Cross-examined. The samples were shown about the last of summer or first of fall; dont know that this is the identical sample; it was from the same lump; the lump was there; did not remark whether Phillips took samples.

Re-examined. The samples were lying open for inspection in the office.

Cross-examined. Mr. Hopkins, 3 or 4 months ago, or Mr. Board, brought some samples from Mr. Havermeyer's sugar-house.

George Chilton, sworn for the United States, is a chemist; 3 samples of sugar were brought him; 3 samples of sugar which he analyzed; he passed strong alcohol through the sugar which separated the molasses from the grains of sugar, then took the solution of molasses into a retort and distilled off the alcohol, by placing the retort in a water bath; the molasses was left in the retort; G C is a statement of the analysis; R X 44 is the sugar resulting from the analysis of specimen R 44; R, No. 44, is the molasses and sirup resulting from the operation. Witness produces 3 samples of the sugar brought to him marked R 10, R 34, and R 44.

Cross-examined. George F. Hopkins says these specimens were taken from the tops of the hogsheads. They had been lying on the side, and were turned up on the head, and the sugar was taken from the top; top and bottom; regard the position in which the hogshead lay in taking out the specimens by boring; they bored from the upper side as they lay.

Re-examined. Their instructions were to take fair specimens.

George Chilton, re-examined, says, X would not give any thing like the proportion of molasses produced by the specimens analyzed; it might produce a very little with the sirup.

Cross-examined. Never analyzed double refined sugar; in raw sugar there is crystaline matter and matter not crystaline, or molasses; 112 lbs. raw sugar produces 27 molasses, 18 bastards, 63 refined. If you analyze the 63 lbs. of refined sugar, it would not yield any molasses; passing alcohol through double refined sugar, he should not get no molasses; sugar will be dissolved by alcohol in passing it through in sufficient quantity; he would dissolve it all into a sirup. In analyzing the specimens from custom-house he passed alcohol through it in small quantities until it ran limpid; in the product there was a portion of sirup with molasses, produced by dissolving crystaline particles, amounting to one-fourth or less, he cannot say how much; can turn the sirup to sugar; again it will produce the same original quantity of sugar if there are no impurities; has not done it or seen it done; has no doubt that it could be done.

Re-examined. The sugar which witness analyzed was not refined sugar.

Cross-examined. Should consider sugar refined if it could not be recomposed so as to produce the same quantity; dont know what proportion the recompounded sugar should bear to the original sugar decomposed in order to cull the original sugar. If the sugar, in undergoing the process of decomposition and recomposition, should lose one-eighth, he dont know whether or not the original sugar would be called, in commerce, refined sugar. It would not be pure sugar.

William A. Tomlinson, sworn for the United States, has been for seven years engaged in the business of selling sugar in this city and in Philadelphia. The specimens produced are known under the name of bastard sugars; refined sugars not usually made use of as a term or denomination; but when it is, witness has always understood it to mean loaf or lump, until the last year, when he has heard several refiners in this city say bastard was to be considered refined sugar because it had gone through the process of refining; not heard it so called elsewhere.

George A. Staunton, sworn for the United States, 20 years a dealer in sugars; samples shown are what are called bastard; always been considered as such; trade call loaf and lump only refined.

Cross-examined. Trade call refined sugars loaf and lump; orders drawn with that specification. They understand refined sugars to be loaf and lump. Witness affixes the idea of refined to those; bastards, loaf, and lump, are ordered by those specific names. Bastards are about the value of raw brown sugars; are used as a substitute for them; dont know whether refined sugars have been much exported.

Re-examined. If told by an exporter that he had exported refined sugar, should never have suspected that he meant bastards. They were never called refined sugar by the trade.

Horatio G. Lewis, for the United States, is engaged in the public store, 258, Front street, where these sugars are stored; they are in the 1st and 2d

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lofts, not at all exposed to dampness; perfectly dry; no water has reached any part of them by accident or design; has examined the hogsheads to-day; there is one from which molasses runs, in addition to those discovered heretofore; they have been there since the 4th January last; began to come in there 3 or 4 days before they were all got in.

Cross-examined. Took in about 130 hogsheads; a part were sent back; for what reason dont know; weather cold when they were removed; dont know whether there was snow; one block between the store and the water.

Re-examined. Never heard it was an improper place to store sugars; molasses running in both lofts.

Charles Morgan, sworn for the United States, to Cocheron, in November, 1828, sold Cocheron 96 hogsheads of molasses; Barlow was with him; said he bought it for the purpose of refining, to turn into sugar; this was in presence of Barlow.

David Lee, sworn for the United States, sold molasses to Barlow in 1827.

Jeremiah Manning, sworn for the United States, has been 20 or 30 years a dealer in sugars; samples are bastard sugars; not known to the trade as refined sugars, or what he calls refined sugars; not worth quite as much as raw sugars of the same complexion.

Cross-examined. Knows nothing of their use or value in foreign market. Refined sugar not used as a term of designation by the trade; lump and loaf are the usual terms; no generic name.

Re-examined. Should not deem bastards refined sugar in any sense of the word, as used by any body.

Daniel S. Lyon, examined for the United States, deputy collector. The sugars in question were seized early in January last; had discussion with Barlow 2 or 3 months before the seizure with respect to sugars. Mr. Barlow saw the samples, of his own and Mr. Archibald's make, which were sent to Washington. Witness showed him samples X and Y; are the last samples which came from Washington, of which Mr. Barlow took a piece; this was after the seizure. These are part of the same loaf which were sent to Washington long before, which he saw, and knew the decision of the Department in relation to it. Exhibited to Mr. Barlow instructions produced in November last, and repeatedly stated to him that bastard sugar could not be exported for the benefit of drawback; date of instructions, October 15, 1828. The following extract is a part of those instructions, "That bastard sugar, (technically so called,) manufactured in the United States cannot be considered *refined sugar* within the meaning of the law, and is therefore not entitled to drawback or bounty on exportation." Believes that the letter from the Department, of August 17, 1829, was shown to Barlow; that he had a copy of it and had it printed; knows that Barlow had a correspondence with Government in relation to sugar; understood from him that he went to Washington and conferred personally with Government on the subject; he must have been on there before the decision was made; he went on to meet the sugar which was transmitted; his sugar was rejected and Archibald's was adopted. These are the sugars spoken of in the Comptroller's letter of August 17, 1829, as Archibald's sugar; letter introduced hereunto annexed, marked (G. D.); another letter from same of same date, introduced, marked G. E.; witness thinks that was also shown to Barlow.

Cross-examined. Saw the large loaf, half white and half brown, in box No. 1, mentioned in the Comptroller's letter; cannot say what denomination it came under; is no judge; dont know that X and Y were taken from

the loaf sent to Washington; they were taken off at Washington, and all witness knows of it, is from the Comptroller's letter. When the sugars sent to Washington were packed, Mr. Barlow was present, and he believes a man was with him; thinks Barlow packed the sugar; two boxes were packed at the same time; various samples were packed up in the two boxes; recollects sugars shipped by Mr. Myer; some of them were worse than bastards; they were permitted by the Treasury to be shipped; this was before the receipt of the above letters; witness understood that a decision of the Treasury prevented their seizure.

Re-examined. There was a large number of sugars entered by Mr. Myer for benefit of drawback; doubts arising whether they were entitled to drawback, several were ordered to the public store for examination; witness examined and took samples from 12 hogsheads; the sugar was of various kinds; some of it was in large and small white lumps, and some of it of a dark kind like raw sugar. Witness gave his opinion that it would be seized, and witness, upon reflection, is under the impression that Mr. Myer finally withdrew it, and did not ship it; he is not sure what was done with it. From August to the time of the seizure Mr. Barlow was at the custom-house on the subject of sugars almost every day.

Cross-examined. Understood Mr. Johnson, the appraiser, examined them.

Andrew Martine, sworn for the United States, is clerk in custom-house; previous to December 31, last, and from August 22, there was paid on sugars exported by Barlow $19,891 20. Since December 31 there has been paid on sugars exported by him $5,219 45; there has been paid to Mr. Crocheron $7,655 80, since August 4, 1829.

Cross-examined. Mr. Heckser has shipped, and $4,593 have been paid him since 26th October last for drawback.

Benjamin Strong, called for claimant, says he dont think they made piece sugars during the excise. Bastard sugar will seldom sell for as much as the raw sugar of the same appearance; thinks hardly one cent a pound less.

William Sutton, called for claimant, says Mr. Barlow's establishment have confined themselves to the foreign trade since he has been there; have used molasses for liquoring, and sometimes it has been put in pans. The last they received was on 17th November, and was used in the course of 9 days after; the principal part used for liquoring; no molasses used even for liquoring in these sugars.

Thomas Tobias, sworn for claimant, has been a sugar refiner in the city since 1816; examines specimens; says they have all been to the sugar house; they are bastard sugars, and are refined sugars; they have been through all the process of refining; its color is owing to its having been made out of inferior sirup, or inferior sugars; it has the appearance of having been clayed; difficult to tell bastard sugar; is liable to contract dampness more than loaf and lump; all qualities of clayed sugar attracts dampness; dont think it absolutely necessary to clay sugar to give the denomination of refined sugar; it will not whiten itself. Has exported refined sugar; a large quantity to Russia; no debenture ever received; has sold Barlow bastard sugar manufactured entirely from foreign sugar, $9 or 10,000 worth; part in the lump, part crushed; dont know so well how sugars are denominated abroad; from the prices current he sees bastards are called refined sugars; doubts whether 5 cents a pound upon fine loaf sugar would justify the expense of exportation; the average of 5 cents on loaf and bastard is insufficient to justify the ex-

pense of exportation; they ought to have a return of 6 on loaf, and 5 on lump, and 3 on bastard, to justify exportation. The duty on the importation of raw sugar is three cents; dont think 4 cents drawback would induce any person to ship bastard.

Cross-examined. Barlow gave 7½ and 8 cents for the bastards for benefit of drawback; thinks he should act justly if he did, but would not come in collision with Government; has seen the oath required to be taken; Mr. Barlow did not request him to take the oath to export them; told him he would have nothing to do at the custom-house; he meant to decline any further trouble with them; he said he would not go and take the oath.

Re-examined. Does not object to going to the custom-house when he sells loaf or lump sugar. When witness sold the sugar he was under the impression it was stated in the oath that the sugar was loaf or lump, and not bastard; he did not know that the oath was that they were refined sugars; he told Barlow if he could pass it he might have it; he has now examined the matter thoroughly, and the more he thinks of it the more he is convinced that bastard is refined sugar.

Cross-examined. Has several times taken the oath, but has always shipped loaf; has had bastards and sold them here; he knew of no market to which he could send them, and therefore it would have been of no advantage to have obtained the drawback upon them; he would now go to the custom-house and take the oath upon the sugars of which specimens are produced; at the time he sold to Barlow he would not; has not understood the value of bastards in Leghorn.

Re-examined. Mr. Barlow said he would buy or sell if witness would make a shipment to Leghorn; has had a number of applications from others, but would not undertake to enter into it.

Henry Hartman, called for claimant, assisted in packing sugar to be sent to Washington, 2 boxes; there was a lump from their house and one from Mr. Archibald's; the lump from Mr. Archibald's was a bastard, or a piece, and not as fine as X or Y, but of a darker color; it was as dark as the specimens from sugars seized, ¾ of it; Mr. Barlow sent a lump of brown that had received but one claying; Mr. Archibald's seemed to have had 2 clays; with 2 clays it would have been better than Archibald's.

Charles A. Heckscher, sworn for claimant, says that bastard sugars nett about 3 or 3½ cents in Hamburgh, according to quality. There is a considerable demand for all kinds of sugar; they are imported there from England as refined sugar; there is a large quantity of refined sugar of all kinds imported there from England; bastards are quoted as refined sugars; witness acts for a house in Hamburgh; it is a part of his business to make advances on refined sugars; he has made such advances on bastards for Barlow; dont remember that they have received fine sugars from this country until within one year; they can sell sugars better in Hamburgh if the brown and white are kept separate.

Cross-examined. Has been one year in business on his own account here; believes they take English lumps and bastards and refine them over there; double loaf not prohibited there, but they are not imported there.

Re-examined. In this shipment by the Spartan there were 200,000 lbs. shipped, and about 75,000 or 80,000 were bastards; the rest pure white loaf and lump. Mr. Barlow shipped a part and Mr. Archibald a part.

Mordecai M. Noah, sworn for the United States, says Mr. Barlow called several times on the subject of sugars. Mr. Barlow showed witness the

process of refining, also some sugar prepared for shipping; went afterwards upon some complaint; saw sugar there; saw none like the specimens from sugars seized; never sanctioned any such; did not the day he went there at Mr. Phillips's request. The sugar which he sanctioned, Mr. Barlow said was worth 12 cents per lb.; had several conversations with Mr. Phillips, who seemed to think Mr. Barlow was doing nothing unfair; no conversation with Mr. Phillips about this shipment; after the lumps came from Washington, they were kept as a standard, and were shown to all the inspectors. Mr. Barlow saw these specimens and knew that they were the standard by which they would be governed hereafter.

A.

(Oath for obtaining drawback on refined sugar.)

District of New York, port of New York.

I, Joseph Barlow, do solemnly, sincerely, and truly swear, that according to my best knowledge and belief, the sugar specified in the annexed certificate, is truly sugar refined within the United States; and I do verily believe that the duties thereon imposed by law have been paid or secured. I also swear, that said sugar was refined out of sugar imported into the United States from a foreign port or place; that it is now actually laden on board the brig Spartan, Winsor, master, for the purpose of being exported to Leghorn, and is not intended to be relanded within the limits of the United States. So help me God.

JOSEPH BARLOW.

Sworn to this December 26, 1829, before me,

D. S. LYON, *D. C.*

An entry of one hundred casks and fifty boxes of refined sugar, intended to be exported in the brig Spartan, Captain Winsor, for Leghorn, for the benefit of drawback, by Joseph Barlow, 4th December, 1829.

Marks.	Nos.	Weight.	Tare.	When deposited.
J 14, R 43, S 7, T 36,	$\frac{1}{100}$ $\frac{1}{300}$	One hundred casks refined sugar. 50 boxes do. do.		104 Duane street. Joseph Barlow.

I certify that Q 14 casks, B 43 casks, S 7 casks, T 36 casks, in all one hundred casks refined sugar, were laden under my inspection on board the brig Spartan, for Leghorn, for benefit of bounty.

N. PHILLIPS.

24th December, 1829. Nett 23,671.

COOPER, *Weigher.*

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A.

Exported by J. Barlow in brig Spartan, for Leghorn, Dec. 21, 1829.

R	43, casks refined sugar,	39,710	3,353	36,357
T	36, casks do	25,732	2,061	23,671
Q	14, casks do	15,828	1,617	14,211
S	7, casks do	7,272	761	6,511
		88,542		80,750
				57,079
				23,671

R,

1	828	58	11	804	60	21	796	57	31	1200	116	41	1104	125
2	812	56	12	788	57	22	796	59	32	1232	117	42	1140	119
3	804	59	13	792	59	23	796	58	33	1252	114	43	1220	127
4	808	60	14	816	56	24	772	56	34	1172	112			
5	812	59	15	818	60	25	776	59	35	808	56			
6	784	57	16	860	58	26	808	57	36	1152	121			
7	828	58	17	812	59	27	856	59	37	1040	118			
8	848	59	18	844	57	28	808	60	38	1160	121			
9	840	57	19	708	59	29	1252	118	39	1148	119			
10	804	58	20	692	60	30	1192	117	40	1128	122			
	8168	581		7934	585		8852	700		11292	1116		3464	371

S,

1	1124	115
2	1052	112
3	1204	112
4	1104	114
5	684	59
6	1052	127
7	1052	121
	7272	761

T,

1	744	58	11	720	60	21	724	56	31	696	57
2	736	60	12	720	56	22	708	58	32	700	57
3	744	57	13	784	59	23	728	57	33	660	60
4	780	59	14	764	56	24	696	59	34	660	55
5	776	58	15	744	57	25	716	60	35	692	57
6	672	56	16	688	59	26	716	56	36	704	57
7	744	58	17	672	60	27	676	58			
8	652	59	18	708	51	28	708	57			
9	724	59	19	712	52	29	668	59			
10	748	57	20	720	53	30	728	55			
	7320	581		7232	563		7068	575		4112	342

Q,

1	1108	94	11	1192	124
2	1056	97	12	1268	126
3	1080	117	13	1064	117
4	1256	120	14	1204	121
5	1136	118			
6	1060	114			
7	1000	114			
8	1068	119			
9	1152	116			
10	1184	120			
	11100	1129		4728	488

EDWARD COOPER, *Weigher.*

Exported by J. Barlow in brig Spartan, Winsor, for Leghorn, Dec. 1829.

R 43, casks refined sugar, from 1 to 43,				39,710	3,353	36,357
Q 14,	do	do	do 1 to 14,	15,828	1,617	14,211
S 7,	do	do	do 1 to 7,	7,272	761	6,511
				62,810		57,079

No. entry 221, at public store.

EDWARD COOPER, *Weigher.*

B.

(Oath for obtaining drawback on refined sugar.)

District of New York, port of New York.

I, Joseph Barlow, do solemnly, sincerely, and truly swear, that, according to my best knowledge and belief, the sugar specified in the annexed certificate is truly sugar refined within the United States; and I do verily believe that the duties thereon imposed by law have been paid or secured. I also swear, that said sugar was refined out of sugar imported into the United States from a foreign port or place; that it is now actually laden on board the brig Spartan, Winsor, master, for the purpose of being exported to Leghorn, and is not intended to be relanded within the limits of the United States. So help me God.

JOSEPH BARLOW.

Sworn to this Dec. 31, 1829, before me,

D. S. LYON, *D. C.*

Exported by J. Barlow, in brig Spartan, Winsor, for Leghorn, Dec. 29, 1829.

R 44 a 53, 10 casks refined sugars	10,338	824	9,514

No. 414, at public store.

EDWARD COOPER, *Weigher.*

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Entry of 40 *hogsheads refined sugar intended to be exported in the brig Spartan, Winsor, master, for Leghorn, for the benefit of drawback, by Joseph Barlow,* 24*th Dec.*, 1829.

Mark.	No.	Weight.	Tare.	Where deposited.
	Forty	hogsheads	refined sugar.	
I certify that	R ten hhds.	44.53		
	O sixteen	1.16	Nett 20986 lbs.	134 Duane street.
	H two	1.2		Joseph Barlow.
	T twelve	37.48		

In all 40 hogsheads refined sugar, were laden under my inspection on board the brig Spartan, for Leghorn, for benefit of bounty.

30th Dec., 1829. N. PHILLIPS.

Exported by J. Barlow, in brig Spartan, Winsor, for Leghorn, Dec. 29, 1829.

O, 16 casks refined sugar	12,016	882	11,134
R, 10 casks do	10,338	824	9,514
T, 12 casks do	9,154	681	8,473
H, 2 casks do	1,432	103	1,329
	32,940		30,450
			9,514
			20,936

O	.	.	.	.	.	.	.	.	.	.	.	.	.	1	852	56	11	736	58
R	.	.	.	.	.	.	.	.	.	44	1210	126		2	804	57	12	724	59
T	.	.	.	37	712	58	47	744	57	45	1116	112		3	756	60	13	708	60
H	1	736	51	38	680	59	48	868	55	46	1188	107		4	748	51	14	728	51
	2	696	52	39	1064	69	.	.	.	47	1108	103		5	744	52	15	724	52
		1432	103																	
				40	684	51	.	.	.	48	944	62		6	860	53	16	740	51
				41	722	52				49	920	65		7	724	54			
				42	732	53				50	972	60		8	740	55			
				43	720	57				51	944	63		9	724	56			
				44	756	59				52	972	64		10	704	57			
															7656	551		4360	331
				45	744	56				53	964	62							
											10338	824						10338	
				46	728	55													
					7542	569		1612	112									9154	

EDWARD COOPER, *Weigher.*

C.

(Oath for obtaining drawback on refined sugar.)

District of New York, port of New York.

I, Joseph Barlow, do solemnly, sincerely, and truly swear, that, according to my best knowledge and belief, the sugar specified in the annexed cer-

lieve, that the duties thereon imposed by law have been paid or secured. I also swear, that said sugar was refined out of sugar imported into the United States from a foreign port or place; that it is now actually laden on board the brig Spartan, Winsor, master, for the purpose of being exported to Leghorn, and is not intended to be relanded within the limits of the United States. So help me God.

JOSEPH BARLOW.

Sworn to this January 16, 1830, before me,

D. S. LYON, *D. C.*

Entry of refined sugars within the United States intended to be shipped on board the brig Spartan, Winsor, master, for the benefit of drawback, by Joseph Barlow, January 14, 1830.

Marks and numbers.	Packages and contents.	Quantity.	When deposited.
B 31.45	Fifteen casks refined sugar,	about 12,000 lbs.	59 Washington street. Joseph Barlow.

B. I certify that I have examined fourteen casks; that they agree with this entry, in part, and were ladened under my inspection on board the brig Spartan, for drawback. New York, January 15, 1830.

J. PORTER, *Inspector.*
FRANKLIN, *Weigher.*

Exported in the brig Spartan, Winsor, master, for Leghorn.

Joseph Barlow		B. 31,344	14 hhds. refined sugar.					
No 31	1 hhd. 816 61		No 39	1 hhd. 824 62				
32	1 do 776 64		40	1 do 804 64				
33	1 do 654 55		41	do 832 65				
34	do 796 66		42	do 808 65				
35	816 67		43	do 828 60	Recapitulation.			
36	652 54		44	do 784 65				
37	848 63							
38	856 72			4,880 381			6,224	502
	6,224 502						4,880	381
							11,104	883

JOHN FRANKLIN, *Weigher.*

NEW YORK, *January*, 1813.

No. 4.

District of New York, port of New York.

The surveyor will cause the sugar specified in the annexed entry to be inspected to ascertain whether it is refined; and, if found fully to correspond

with the entry herewith, will have them weighed, and will permit said refined sugar to be laden on board the brig Spartan, Winsor, master, for Leghorn, for the benefit of drawback. CUSTOM-HOUSE, *January 14th*, 1830.

JNO. FERGERSON, *Naval Officer.*

D. S. LYON, *Collector.*

G. C.

NEW YORK, *February 15th*, 1813.

This may certify that three samples of brown sugar, submitted to examination, yielded as follows, viz:

	R X 10	R X 44	R X 34
Crystaline sugar, colored,	76	71	75
Molasses, with some sirup,	19	25	18
Water and insoluble matter,	5	4	7
	100	100	100

GEORGE CHILTON.

G. D.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
17th August, 1829.

SIR: Your letter of the 13th instant has been received, accompanied by another sample of sugar; in relation to which you request the opinion of this Department, whether it be refined sugar within the meaning of the law. In the decision of this Department, under date of the 10th instant, no other of the samples of sugar then forwarded were intended to be included than the 10 hogsheads entered for exportation, for benefit of drawback; with respect to the small white loaf and the lump sugar, no doubt, it was supposed, was entertained of their being refined sugar within the meaning of the law. From an examination of the large loaf, half white and half brown, in box No. 1, which now appears was from Mr. Archibald's refinery, I am of opinion it may be considered refined sugar within the meaning of the law. The circumstance of the lower part of that loaf being white and the upper brown, is stated by Mr. Archibald to arise from the lower part having been clayed, and not the other, although in all other respects both underwent the same process of refining.

It is distinctly to be understood that no sugar which has undergone a process of what may be alleged to be refining, to a less degree than that of Mr. Archibald's, is to be considered refined sugar within the meaning of the law. I am of opinion that the sugar, of which samples accompanied your letter of the 13th instant, should be considered refined sugar within the meaning of the law. Part of the samples of the latter, and some samples from Mr. Archibald's loaf in question, will be enclosed to you in a small cigar box.

Respectfully,

JOS. ANDERSON, *Comptroller.*

SAM'L. SWARTWOUT,
Collector, New York.
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TREASURY DEPARTMENT,
Comptroller's Office, Aug. 17, 1829.

SIR: Enclosed you will receive samples taken from the bottom and top of the large loaf of sugar, heretofore forwarded by you, and which Mr. Archibald says came from Mr. Barlow's refinery.

I do not consider this sugar refined sugar within the meaning of the law.

Respectfully,
JOS. ANDERSON, *Comptroller.*

SAM'L. SWARTWOUT, Esq.

In admiralty, United States' district court, southern district of New York.

The UNITED STATES OF AMERICA,
vs.
Eighty-five hogsheads of sugar,
JOSEPH BARLOW, claimant.

This cause having been heard upon the pleadings and proofs, and due consideration thereof being had, it is determined and decreed by the court that the sugars mentioned in the pleadings in this cause is not refined sugar within the meaning of the act of Congress of January 21, 1829, and that entry was made of the said sugar in the office of the collector of the port of New York for exportation by a false denomination, the same being entered by the owner for the benefit of drawback or bounty, under the denomination of refined sugar. But it is further considered and decreed, that it has been made appear, to the satisfaction of this court, that such false denomination happened by the mistake of the claimant, the owner, in believing bastard sugar to be refined sugar entitled to the drawback provided by the said act of Congress. And it is further considered and decreed by this court, that the forfeiture of the said sugar so entered has not been incurred by the owner. It is further ordered and decreed by this court, that the said claimant pay the taxable costs of the libellants and of the officers of this court in this cause; and that, therefore, the libel filed in this cause be dismissed, and that the said sugar be delivered up on demand, at reasonable times, to the said claimant; and it is further ordered, that a certificate of probable cause of seizure be given the collector or officer of the customs, by whom the seizure of the said sugar may have been made.

SAM'L. R. BETTS.

United States' district court for the southern district of New York.

The UNITED STATES OF AMERICA,
vs.
Eighty-five hogsheads of sugar, &c.,
JOSEPH BARLOW, claimant.
Appeal, filed April 27, 1830.

The United States of America, by James A. Hamilton, the attorney of the United States for the southern district of New York, doth hereby appeal from the decision and decree of this honorable court in this cause to the circuit court of the United States for the southern district of New York in the second circuit, to be held at the City Hall of the city of New York, in the said southern district, on the last Monday in May next. And the said attorney prays this honorable court to order and direct that the process,

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pleadings, and other proceedings remaining of record in the said court, together with the evidence and exhibits in the said cause, and the decree of this court, be certified to the said circuit court on the day and at the place aforesaid, then and there to hear and determine the same, &c.

JAMES A. HAMILTON,
District attorney, U. S. &c.

Dated 27*th April*, 1830.

District court of the United States for the southern district of New York.

Eighty-five hogsheads of sugar,
JOSEPH BARLOW, claimant,
ads.
The UNITED STATES OF AMERICA. } *In admiralty—Cross appeal.*

Joseph Barlow, by Washington Q. Morton, his attorney, doth hereby appeal from the decision and decree of the honorable the district Judge of the southern district of New York, entered in the above cause in the district court on the fourteenth day of April, in the year of our Lord one thousand eight hundred and thirty, (so far forth as the same doth declare the said eighty-five hogsheads of sugar not to have been sugar refined within the meaning of the law, and entered for the benefit of drawback on exportation by a false denomination, and so far forth as the said decision and decree declares the said claimant to be charged with the costs accruing from the seizure of the said sugars,) to the circuit court of the United States for the said southern district of New York in the second circuit, to be held at the City Hall of the city of New York on the last Monday in May next, then and there to hear and determine the same.

WASH'N. Q. MORTON,
Attorney and of counsel for claimant.

Dated *April* 27, 1830.

The return to this appeal appears from the papers hereunto annexed, being the return to the appeal of the United States in the same cause. The answer of Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

FRED. J. BETTS, *Clerk.*

I consent that the within appeal be filed, nunc pro time. Feb. 7, 1831.
JAMES A. HAMILTON, *U. S. Dist. Att.*

Testimony taken in open court and reduced to writing, by the clerk, in the case of the United States, appellants, *vs.* 85 hogsheads of sugar, Joseph Barlow claimant and respondent.

W. C. Boardman, sworn for the United States, is a commission merchant, and has been engaged in selling sugar and molasses; has contracted to sell sugar to Crocheron. Mr. Barlow examined the sugar. Mr. Barlow called several times at witness's office to purchase molasses, in May and June, 1829, and then informed witness that he had a secret mode of making refined sugar by mixing molasses with the sugar; could thus get a greater quantity of a low quality of refined sugar; said he was in the practice of exporting largely; sold Barlow in those months about 40 hogsheads; he said there was only one particular kind of molasses which would answer his

purpose; has sold him, about the same time, 12 or 15 hogsheads of low price raw sugars, 7 and 8 cents per lb.

Re-examined. H. and A. Crocheron paid for the molasses; Mr. Barlow would sometimes say that he could not take it when purchased; no recollection that the molasses was delivered to Crocheron's cartman. Crocheron is a grocer, and buys for his customers sugar and molasses; sold Mr. Barlow, he thinks, St. Eustatia sugars; they had paid the duties; lower qualities pay the same duties as brown Havana; knows nothing of refining sugars; the sugar purchased by Barlow was paid for by Mr. Derring's note, or draft; sold molasses in May and June, 1829, to Mr. Barlow; does not know that any part of it has been converted to sugar.

Re-examined. Mr. Derring's sugar-house is in Duane street; does not know where the molasses was sent; dont know whether Barlow was connected with Derring. Mr. Barlow informed witness that Mr. Crocheron made the most of Mr. Barlow's purchases.

Sworn this 13*th December*, 1830.

FRED. J. BETTS, *Clerk.*

Peter R. Spranger, sworn for the United States, says, he is an inspector of the customs; was employed in inspecting the sugars put on board the brig Spartan by Mr. Barlow, on the 31st December last; there was a hogshead sent down which was rejected; thinks this was after the sugars had been sent to the public store; not certain, however; was a hogshead which the inspectors thought not equal to the specimens, and they laid it aside. Mr. Barlow not then present, but came down shortly after, and witness then told him that there was a cask which they could not pass. Mr. Barlow said very well, let it be; some time after, thinks the latter part of the same day, Mr. Barlow said to witness, "I sent that cask down on purpose to try you, to see whether you would pass it;" has examined the samples of sugar in court; thinks the cask rejected was not as dark as some of these; was there on the 31st December; the next day being holyday, it was proposed, Mr. Barlow and the Captain being present, that the vessel should be locked; such was the understanding between the parties; had no custom-house locks; borrowed a lock from the ship; locked it and took the key, and witness then considered it as his lock; went down to the vessel about 10 A. M., the 2d January; had then no conversation with Barlow.

Cross-examined. Says he dont know what description of sugar the hogshead rejected was, except that it was dark; knows that it was dark, for he bored it himself; does not recollect that Barlow said it was brown lump; dont know whether Mr. Barlow chartered or owned the Spartan; dont know the mark of the hogshead; dont know that it was marked B; has an impression that there were two or three other hogsheads laid aside, but cant say certainly; dont know their marks. The samples shown, marked B, he says are not as dark as the hogshead he rejected; he should not have stopped that sample; it is witness's impression that the hogshead stopped was not marked B, but it might have been; dont know what became of the hogshead rejected; thinks it was not sent to the public store. The conversation with Barlow with respect to the rejected hogshead was on or about the 8th of January, and on the same day that it was rejected. The 3 hogsheads B, 1, 2, 20, were sent to the public store on or about the 14th of January, as he now finds from his memorandum; dont think the hogshead rejected could have been one of these; did not seize the hogshead rejected; Mr. Reynolds and Mr. Hopkins were with him.

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Re-examined. Says the hogshead rejected was so bad that he felt provoked that Mr. Barlow had sent it down to try him.

Sworn this 13*th December*, 1830.

FRED. J. BETTS, *Clerk.*

James G. Reynolds, sworn for the United States, says, he has heard the foregoing testimony of Mr. Spranger; was present when the conversation took place between Mr. Barlow and Mr. Spranger, with regard to the rejected hogshead, and it is correctly stated by him. On the 30th December witness says he was ordered to go on board the Spartan for the purpose of sampling the sugars then on board, and as they came on board; they sampled 25 or 30 hogsheads; Mr. Barlow came on board and ordered them out of the vessel, and objected to having any hogsheads sampled; after they had taken these samples and got them on the wharf, Mr. Barlow said they might go back and sample as many as they pleased; had already taken enough, and declined to go back. On the 31st, was ordered by the collector to go on board again; went, and Mr. Spranger and Mr. Hopkins with him; sampled that day 20 boxes and 10 casks, which were all they could get at; could not sample any more without removing a part of the cargo; at night agreed with the Captain and Mr. Barlow to lock the vessel with one of the locks of the vessel, and that nothing further should go on board the next day unless the inspectors commenced working on that day, in which case he might begin to put in the cargo; it was finally agreed that nothing should be done until after 9 or 10 o'clock, A. M., on the 2d January. On the 2d of January, about 8 o'clock A. M., witness went down to the vessel and found her broken open, and the cargo going on board, which prevented them from taking any more samples of the sugars on board. The cargo which they were taking on board was sugar claimed by Mr. Barlow; he was there; remonstrated with Mr. Barlow; he said they had gone illegally to work, and he intended to make the collector and all of them sweat for it, or words to that effect, and took their names down; that he should continue loading the vessel until he was stopped by proper authority; witness accordingly informed the collector of this; the latter part of that day was ordered by the collector to go down and seize the vessel and cargo, and put the custom-house locks upon her, and to agree with some person to unlade as much of the cargo as would enable them to sample the sugar; this was done; went down on the 5th of January, and found the Captain's lock upon the vessel by the side of theirs, and the Captain refused to remove it except upon the written order of the collector; obtained such order, and the Captain then ordered his locks off, and they went to work and discharged enough of the cargo to enable them to take the necessary samples; finished discharging on the 7th of January, and reported to the collector, and gave up the vessel to the Captain on the 8th; they commenced re-loading the vessel, and they sent back into the vessel all of the sugars that were white, 32 hogsheads in number. Barlow and Archibald claimed all of the sugar on board; on the 9th and 10th were ordered to sample the balance of the sugars; which they did, and the samples in court are those which were then obtained. On the 13th or 14th were ordered to go down and sample other sugars which were going on board; B 1, 2, and 20 were then sampled. It is witness's impression that the cask rejected, referred to in Mr. Spranger's testimony, was one of these, but cant say positively; dont know but Mr. Barlow took that away with him. Mr. Barlow said that day that he had sent that cask to try them.

Cross-examined. When Mr. Barlow ordered them on shore, he did not say he did it as a matter of form. The one hogshead was rejected because it was quite as dark as some of the R's which had been retained. The B's were darker than the samples produced, marked B 1, 2, 20; thinks they should have stopped these samples as they are darker than the sample which they had as a guide. The rejected hogshead was darker than these samples; it was something like the sample produced, marked R.

Sworn this 13*th December*, 1830.

FRED. J. BETTS, *Clerk.*

Benjamin Strong, sworn for the United States, says, he is a sugar-refiner, and has been so for many years; the samples in court being shown to him, he says, he probably has examined them before, and they have since contracted moisture as they would naturally do; they are not refined sugars, in his opinion, but are bastard; 100 lbs. of white Havana will yield more than 60 lbs. of refined sugar; 100 lbs. good Muscovado sugar would produce 45 lump, 21 bastard, and 30 lbs. of molasses; the sugar, of which the specimens in court are the product, he has no doubt was brown sugar. Two pounds of raw sugar will produce one of refined; such is his experience as a refiner. If 5 cents per pound drawback is paid on the lump and bastard the Government will pay a drawback greater than the amount of duties on the raw sugar. The calculation of the quantity produced from Muscovado above, is made upon the first process; bastard may be converted into loaf or lump, and then the two processes would produce more refined sugar than is above stated. Bastard was *never*, in witness's opinion, refined sugar. In 1813–'14 the collector claimed the excise duty, at that time given by law upon refined sugar, as due upon all sugar turned out of the sugar-house, and witness resisted it, and wrote to the Treasury Department on the subject, when it was given up; he wrote at the suggestion of the collector; he sold Mr. Barlow a lot of bastard sugar, but told him at the time that he should not go to the custom-house and take any oath about it, but he did assure Mr. Barlow that it was the product of foreign sugar. The sale was made to Mr. Barlow, but the bill was made out to John Derring. Mr. Barlow is the acting man there, but the firm is John Derring. Never exported any bastard as refined sugar.

Cross-examined. Sample F being shown to him, he says he cannot say whether it is bastard sugar, but thinks it is. Specimen H being shown, he says he considers it brown Havana; it is impossible to tell with certainty, from small specimens, what they are. Specimen R shown, says he thinks it white Havana; cant say with certainty; made a shipment of sugar about a year since; it was better than sugar in box marked A, when it was put up; never made sugar out of molasses; once tried to do so, and could not do it; the molasses had commenced its fermentation, and was a little sour; molasses is substituted for water in liquoring; thinks it would not take more than three gallons to liquor 50 lbs. of sugar. In liquoring, none of the molasses turns to sugar. Witness has heard that Mr. Barlow could make sugar out of molasses; he cant do it. The sugars exported by witness were about half white and half brown, conforming with the specimens sent from Washington. Witness does not think sugar must be white to be refined, but it must be nearly so; thinks sugar could not be decomposed and again recomposed without losing weight.

Sworn *Dec.* 14*th*, 1830. FRED. J. BETTS, *Clerk.*

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Naphtali Phillips, sworn for the United States, says, Mr. Barlow was a stranger to witness. The first time he went to inspect sugar for him, he loaned witness $100, previous to the inspection of the sugars now in controversy; the money was loaned a year last summer; knows nothing of Mr. Barlow's circumstances.

Cross-examined. Paid back the most of the money the next day; still holds his place in the custom-house; was never bribed by Barlow.

Re-examined. At another time borrowed $20 of Barlow; now owes him $25; owed him money at the time these sugars were inspected.

Cross-examined. When witness borrowed the money he had a sum of money to pay that day, and seeing Mr. Barlow had money, took the liberty of asking for the loan of it, rather than leave the sugar-house where he was engaged as inspector; is a relation of Mr. Noah, the surveyor.

Sworn *Dec. 14th*, 1830.

FRED. J. BETTS, *Clerk.*

Circuit court of the United States.

The UNITED STATES OF AMERICA,
vs.
Eighty-five hogsheads of sugar,
JOSEPH BARLOW, claimant.

We, the appraisers, appointed for the appraisement of the eighty-five hogsheads of sugar in this cause, do hereby certify that we appraise the said sugars at six cents the pound, or six dollars the hundred weight. The contents of said eighty-five hogsheads being seventy-five thousand one hundred and seventy-seven pounds, they are appraised at four thousand five hundred and ten dollars sixty-two cents.

JEROMUS JOHNSON,
THOMAS PROCTOR,
JACOB HAFF.

Dated NEW YORK, *July* 19, 1830.

United States' circuit court, southern district, New York, second circuit.

The UNITED STATES OF AMERICA, appellant,
vs.
85 hhds. of sugar, JOSEPH BARLOW, respondent.

Final decree and appeal, and cross appeal, Jan. 4, 1831.

This cause having been brought to a hearing upon the pleadings and proofs therein, and counsel having been heard upon the appeal by the United States of America, as well as upon the appeal by Joseph Barlow, the claimant of the sugars mentioned in the pleadings in the cause, and the court having taken time to advise as to its decision, due deliberation being had, it is now ordered, adjudged, and decreed by the court, and his honor Smith Thompson, judge of this court, doth order, adjudge, and decree, that the appeal of the said Joseph Barlow, claimant as aforesaid, be dismissed, with costs.

And it is further, in like manner, ordered, adjudged, and decreed, that the decree of the district court of the United States for the southern district of New York, so far as the same acquits the said sugars from forfeiture, for the causes in the libel in this cause mentioned, be reversed, with costs.

And it is further, in like manner, ordered, adjudged, and decreed, that the said sugars are not refined sugars, entitled to the benefit of drawback or bounty, within the meaning of the act of Congress of the twenty-first of